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November 7, 2001

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, Massachusetts 02110

**Re: D.T.E. 99-84, Service Quality Standards for Electric Distribution and Local Gas Distribution Companies**  
**D.T.E. 01-71 -- Massachusetts Electric Company/Nantucket Electric Company**  
**D.T.E. 99-47 -- Massachusetts Electric Company/Eastern Edison Company**

Dear Secretary Cottrell:

By this letter, the Division of Energy Resources ("DOER"), the Office of the Attorney General ("Attorney General"), Associated Industries of Massachusetts ("AIM"), and The Energy Consortium ("TEC")(collectively "the Customer Group"), provide Joint Comments on the Service Quality Plan submitted by Massachusetts Electric Company and Nantucket Electric Company (collectively, "MassElectric" or "the Company") for approval by the Department of Telecommunications and Energy ("Department") on October 29, 2001, in compliance with the directives established in *Service Quality Standards for Electric Distribution and Local Gas Distribution Companies*, D.T.E. 99-84 (2001) and the terms of the rate plan approved in *Massachusetts Electric Company/Eastern Edison Company*, D.T.E. 99-47 (2000).<sup>1</sup>

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<sup>1</sup> The Customer Group notes that the scope of the settlement in this matter is limited to the Company's compliance with the Department's directives in 99-84 and does not encompass the Department's

The Service Quality Plan included in MassElectric's October 29, 2001 filing ("Revised Plan") is the subject of a settlement agreement between MassElectric and the Customer Group. The settlement modifies the Company's existing service quality plan adopted as part of a rate plan settlement agreement that was filed with the Department on November 29, 1999, approved on March 14, 2000, and has been in effect since May 1, 2000. The Department has determined that the predecessor of the Revised Plan complies with G.L. c. 164, § 1E, and that the long-term rate agreement, of which the Revised Plan is an integral element, provides valuable benefits to consumers. The Customer Group urges the Department to approve the Revised Plan. It conforms to the broad terms of the Department's service quality plan guidelines; provides incentives for the Company to not only maintain, but also to improve, the quality of service provided to customers; and maintains the rate stability and efficiency incentives achieved in the 1999 rate plan settlement approved in connection with the MassElectric/Eastern Edison merger.

### **Background**

The Department's establishment of generic service quality standards this past summer marked an important juncture in the evolution of the regulation of the Commonwealth's gas and electric utilities. Durable service quality standards are an essential element in the creation of any mechanism to protect against degradation in the level of the service provided to consumers. This is a particularly important goal in the context of the ongoing transformation of utility regulation from a pervasive command and control system to a goal or results driven system characterized by reliance upon market-like mechanisms to achieve reliable and high quality service at reasonable rates. The shift in focus from a "cost of service" system to a performance-based system requires the establishment of performance baselines. The "Guidelines" adopted by the Department represent a commendable effort to provide a generic baseline on which acceptable individual initial company service quality plans can be formulated and later enhanced.

Moreover, notwithstanding the Department's care in focusing its initial efforts on establishing service quality standards "designed to prevent deterioration of the service quality ratepayers are entitled to receive," *Service Quality Standards*, D.T.E. 99-84, p. 43 (2000), it is clear that the same objective measures of service quality that are used to provide baseline protection against service degradation can also be used to advance the General Court's more ambitious goals of "improved service" and "enhance[d] reliability." St.1997, c. 164, §§ 1(f) and (p). As the Department recognized in its early efforts to spur the evolution of the regulatory environment to provide better results for consumers, a shift in focus from "costs" to "performance" should yield both higher efficiency (lower costs) and better performance (higher quality). *Incentive Regulation*, D.P.U. 94-158, pp. 59-61 (1995).

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investigation of the underlying causes for the distribution system outages experienced during the Summer of 2001.

Among the terms of the comprehensive long-term rate plan proposed in a settlement agreement between MassElectric and the Customer Group that was approved by the Department in May, 2000, was a service quality plan that incorporated a set of service quality measures and standards that were very similar to those included in the generic baseline prescribed in the Department's Guidelines.<sup>2</sup> Although the settlement included express provision for future modifications of the terms concerning the service quality plan to respond to future action by the Department in connection with the implementation of G.L. 164, § 1E, the agreement also provided that any "significant difference in the balance of risks, costs and benefits" would be accorded "exogenous factor" recognition. D.T.E. 99-47 Settlement, pp. 26-27. The settlement agreement under which the Revised Plan has been submitted requires the Company to waive any rights it might otherwise have to an exogenous factor adjustment for the modifications required by the Revised Plan.

### **The Department Should Approve The Revised MassElectric Service Quality Plan**

The Customer Group urges the Department to approve the Revised Plan that was submitted on October 29, 2001. The proposed revisions to MassElectric's existing service quality plan create a Revised Plan that conforms with the broad terms of the Department's guidelines and extends the benefits from the Department's efforts by incorporating those service standards into a comprehensive rate plan that encourages service quality improvements while continuing to provide the long-term rate stability and efficiency incentives created by the terms of the 1999 MassElectric rate plan.

First, the Revised Plan amends the earlier agreement to provide for service quality standards (the specific measures themselves as well as the "standards" calculated for those measures) that are the same or more stringent than those set forth in the Department's guidelines.<sup>3</sup> The following revisions to the prior plan modify the earlier terms to produce a plan that more closely mirrors the guidelines --

- ?? three measures included in the earlier agreement were eliminated (two survey based measures of customer satisfaction and a second employee safety measure);
- ?? a provision was added to require annual adjustments to the maximum penalties to maintain them at two percent of the Company's revenues;

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<sup>2</sup> The service quality standards in the 1999 settlement did not include the billing adjustment measure included in the Department's Guidelines, but did include four measures beyond those in the Department's Guidelines: line losses, customer satisfaction surveys, customer contact surveys, and restricted work case rate.

<sup>3</sup> The Revised Plan does provide for a modest variation in the computation of the "billing adjustment" which has the effect of "normalizing" the measure to isolate out effects from changes in rate levels. The Customer Group submits that this variation is a technical improvement that eliminates an unintended consequence of failing to "normalize" the measure.

- ?? the standards computation will be based on ten-years of data (where available); and
  - ?? the determination of penalty amounts is to be done pursuant to the Department's methodology
- while the following provisions were either retained or added to provide more stringent standards to support a long-term performance based rate plan calculated as much to encourage economic service quality improvements as to protect against service quality degradation:
- ?? the inclusion of a measure for distribution line losses (expressly subject to later modification);
  - ?? the exclusion of customer service guarantee payments from the determination of the maximum penalties;
  - ?? the automatic doubling and immediate payment of penalties for a consistent failure to meet the minimum level for the reliability service standards (*i.e.*, fall two or more standard deviations below the standard for three or more years in a row); and
  - ?? the standards computation will be updated annually to reflect new data, subject to a floor equal to the initial minimum level of the service standards.

These aspects of the Revised Plan yield material improvements for consumers and should be approved notwithstanding the four deviations from the Department's guidelines.

The proposed service quality standards are as stringent or more stringent than those in the Department's guidelines, are an integral component of a long-term rate plan that has and will continue to provide rate stability, and resolve two of the important implementation issues raised in D.T.E. 01-71 (the effective date of the newly filed service quality plans and the aggregate level of potential penalties pending the acquisition of data to formulate standards for all measures) on terms that are favorable to consumers. Continuing to update the performance standards to reflect new data, while at the same time maintaining the initial performance standards as a quality "floor," creates a ratchet-like mechanism that should yield increasing performance standards and, in turn, continuous improvements in service quality. Although the Revised Plan provides for the possibility that the measure will need to be refined as greater experience is gained, it does include a measure for line losses and thereby gives valuable recognition to the costs of and the critical need to minimize the amount of power lost in routine system operation. Finally, approval of the Revised Plan avoids the difficulties and need to devote resources to quantify the "exogenous cost" impact, if any, of the Department's guidelines in connection with the operation of the 1999 MassElectric rate plan.

Second, the material differences between the Revised Plan and the Department's guidelines concern the terms under which the Company's performance in relation to those "standards" is reflected in rates. As is discussed above, the standards in the Revised Plan largely mirror those in the Department's guidelines and to the extent that they do differ, they do so in ways that hold the Company to more stringent standards. Under the Department's guidelines, rates are to be adjusted to reflect any penalties

determined to be appropriate as a result of deficient performance in the immediately preceding year. The only reward for superior performance in a given year is as an offset to penalties that would otherwise be owed for performance on other measures in that same year. The Guidelines do not provide for rewards for superior performance or for using superior performance in one year to be used to offset penalties that would otherwise be due in another year. *Service Quality Guidelines*, D.T.E. 99-84, pp. 43-45 (August 17, 2000); Guidelines, § VII, A; *Service Quality Standards*, D.T.E. 99-84, p. 28 (June 29, 2001); D.T.E. 99-84-B, pp. 2-6 (September 28, 2001).

In contrast, but consistent with the terms of a long-term rate plan that was approved by the Department,<sup>4</sup> rates under the Revised Plan are not to be adjusted in the ordinary course to reflect the Company's performance in relation to the service quality standards. Instead, the Company's performance is reflected in an ongoing, symmetrical system of penalties and rewards without any actual rate adjustment until the end of the rate plan in 2009 unless the accumulated balance exceeds \$20 million (approximately three percent of the Company's 2001 distribution and transmission revenues) or the Company fails to meet the minimum reliability service standard for three or more consecutive years. This scoring mechanism with a built-in cushion is created to both ensure against service deterioration and encourage long-term improvements, while at the same time providing rate stability.

The Department has already determined that the predecessor of the Revised Plan satisfied the terms of G.L. c. 164, § 1E. The differences between the Revised Plan and the Guidelines do not raise any fundamental inconsistencies with the principles underlying the Department's generic service quality guidelines. The differences are both reasonable and appropriate in light of the unique context provided by the long-term rate plan. They certainly do not require any modification of the Revised Plan. While the Department has indicated that G.L. c. 164, § 1E, does not require incentives for superior performance, it has also observed that the language of G.L. c. 164, § 1E, does not preclude such incentives. *Service Quality Standard*, D.T.E. 99-84, p. 44 (August 17, 2000). Given that the Department has in the past given financial recognition to superior performance, it would not be reasonable to construe the silence in G.L. c. 164, § 1E on the question of rewards to somehow constrain the Department's preexisting authority. See *Massachusetts Electric Company*, D.P.U. 89-194/195, p. 177 (1989)(incentives are appropriate for exemplary performance in the implementation of DSM programs); *Massachusetts Electric Company*, D.P.U. 92-78, p. 151 (1992)(enhanced rate of return appropriate for superior service), and approved settlement terms providing for incentive rate plans as appropriate and providing benefits to consumers, *Boston Edison Company*, D.P.U. 88-28/88-48/89-100, pp. 5-7 (1989)(incentives for improved operation of Pilgrim nuclear plant); *Massachusetts Electric Company*, D.P.U. 96-25 (1997); see generally:

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<sup>4</sup> The reference to the fact that the Department has already approved the terms of a settlement that created MassElectric's existing service quality plan is not intended to suggest that approval precludes any modification of the essential terms of that service quality plan. The 1999 agreement and the Department itself were both express in providing for the modification of the plan to respond to the subsequent promulgation by the Department of service quality standards guidelines. *Massachusetts Electric Company/Eastern Edison Company*, D.T.E. 99-47, pp. 12-14, 31-32 (2000); Settlement, p. 26.

*Incentive Regulation*, D.P.U. 94-158, pp. 47-52 (1995), Finally, the use of a penalty/reward accounting mechanism with a built-in cushion in place of immediate rate recognition advances the goal of rate stability and, as was explained by MassElectric, provides both incentives for improved performance and a necessary measure of planning certainty to facilitate investments that may require short-term costs to achieve long-term benefits. October 29, 2001 letter from Amy G. Rabinowitz to Mary Cottrell, pp. 6-7.

### **Conclusion**

The terms of the Revised Plan comply with the requirements of G.L. c. 164, § 1E, they provide for standards that are as stringent or more stringent than those in the Department's Guidelines; they provide incentives for the Company to work to improve the quality of the service provided to its customers; and they do so while preserving the valuable and innovative rate benchmarking and rate stability provisions of the ten year rate plan approved in *Massachusetts Electric Company/Eastern Edison Company*, D.T.E. 99-47 (2000). The Revised Plan builds upon and extends the benefits provided in the well-reasoned service quality plan baselines established in the Department's Guidelines. The Revised Plan is in the public interest and should be approved.

Respectfully submitted:

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